

**ANNUAL REPORT
to the Commissioner
Department of Environmental Protection
July 1, 1994 -- June 30, 1995**

I. Introduction

The Board of Underground Storage Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, and 1992. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil and underground hazardous substance storage tank installers and to assure the availability of underground oil and underground hazardous substance storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil and underground hazardous substance storage tank installation services."

Thus, the Board has three major responsibilities: (1) certifying underground tank installers and underground gasoline tank removers, (2) managing and accrediting continuing education for certified underground tank installers and removers, and (3) taking disciplinary actions against installers and removers who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA Section 10004(6)). This report is designed to fulfill that mandate for FY 94/95. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data management; and
- Financial Statement

II. Membership and Staffing

Members of the Board are as follows:

- Wayne Gifford, chair (Maine Oil Dealers' Association) - Term expires 12/31/97
- Robert Judkins (Maine Oil and Solid Fuel Board) - Term expires 12/31/96
- Rance Knowles (Maine Fire Chief Association) - Term expires 12/31/96.
- Roger Lewis (Public Member) - Term expires 12/31/95.
- Joseph (Bruce) Probert (Me. Chamber of Commerce) - Term expires 12/31/95.
- Alan Prysunka (DEP) - Term expires 12/31/96.

Roger Lewis is a new member this year. Mr. Lewis was appointed December 29, 1994 to succeed Harry Stetson as the Board's public member. The position of certified installer representative to the Board is currently vacant due to the recent resignation of Gerald LaPointe, who resigned to pursue other business endeavors. James Hynson and Theresa Scott continued to provide staffing to the Board. Additional sporadic support was provided by staff from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Denise Fournier, Ted Scharf, Robert Stratton, and Ryan Annis. Support from the Office of the Attorney General was provided by Dennis Harnish.

III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

A. Number of Installers Certified

The number of certified installers is 186, compared to 184 that were certified at the end of FY 93/94. At present, this includes 183 who hold Class 2 Oil Tank Installer Certificates, and three (3) Oil Tank Installers. During the year, six (6) new installers became certified. Three (3) elected not to apply for recertification once their old certificates expired. One (1) installer passed away.

There are two (2) underground gasoline tank removers in Maine. One (1) individual took and passed the initial underground tank remover examination last year, and passed an on-site examination this year. The second certified remover took and passed both the written examination and the on-site examination this year.

No underground hazardous substance tank installers were certified by the Board. As of the end of this year, the Board had received one (1) application for underground hazardous substance tank installer certificates in the nine (9) years the program has been effective. In the event a facility owner would wish to install or replace an underground hazardous substance tank, a legally qualified person would not be available. We continue to suggest the DEP consider seeking amendment of its statutes and/or rules to allow such an installation or replacement to proceed under the supervision of a professional engineer and underground oil tank installer while the Board would seek abolishment of this distinctly undemanded program.

B. Written Exams

Considerable effort was spent in FY 94/95 updating written exams, based on a number of revisions to some of the documents we use for study materials, including the Petroleum Equipment Institute's recommended practice, fire codes, and tank manufacturers' installation instructions. Draft revisions and new questions are currently being reviewed by a team of five (5) certified installers prior to being incorporated into the pool of examination questions. Those installers are Paul Bosse, Anthony Couture, Arthur Gooldrup, Jr., Marcel Moreau, and Phil Pimentel.

We offered two (2) written examinations during FY 94/95: December 7, 1994 and April 26, 1995. In all cases, the Board offered the initial oil tank installer examination, the final examinations for Classes 2 and 3 underground oil tank installer certification, the underground gasoline tank remover examination, and the underground hazardous substance tank installer examination. Results of those examinations are provided in Table 1. A total of 23 applicants took the exams, including 15 initial oil tank installer exams, four (4) Class 2 oil tank installer final exams, no Class 3 oil tank installer final exams, and four (4) gasoline tank remover exams. Of these 17 passed while six (6) failed.

Exam	12/7/94			4/26/95			Total		
	Pass	Fail	Total	Pass	Fail	Total	Pass	Fail	Total
Initial Oil Tank Installer	2	3	5	8	2	10	10	5	15
Class 2 Final	3	0	3	1	0	1	4	0	4
Class 3 Final	0	0	0	0	0	0	0	0	0
Gasoline Tank Remover	2	0	2	1	1	2	3	1	4
Haz. Sub. Tank Installer	0	0	0	0	0	0	0	0	0
Total	7	3	10	10	3	13	17	6	23

Table 1. Results of written examinations given by the Board of Underground Storage Tank Installers FY 94/95.

C. On-Site Exams

The 1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground hazardous substance tank installers and underground gasoline tank removers, no applicants for underground hazardous substance tank installer certificates took the written examination in FY 94/95, and thus none were eligible for the on-site examination. Two (2) applicants passed underground gasoline tank remover on site examinations in FY 94/95.

D. Upgrades

No Class 3 Underground Tank Installers completed apprenticeship requirements and passed the final examination to be upgraded to Class 2 Underground Tank Installers in FY 94/95.

E. Apprenticeships

By virtue of passing the initial oil tank installer examination, 12 applicants qualified as oil tank installer apprentices this year, in addition to the 58 which qualified in previous years. Four of those were eligible to take the final exam last year. All four passed the final exam. Fourteen (14) apprentices elected to renew their apprentice certificates or have certificates which are current. None of these have fulfilled their apprenticeship requirements qualifying them for the final examination.

F. Variances

The 1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the certification process (32 MRSA Sec. 10010.3-A.D; 06-481 CMR c. 3 Sec. 4.D). During FY 94/95, the Board received and granted one (1) formal application for variances.

IV. Recertification and Continuing Education

Eighteen (18) installers applied and were granted renewal certificates, while three (3) did not reapply. Two (2) individuals applied but had not met the Board's continuing education requirement, and thus disciplinary action is ensued. Both were granted a six month probation to make up education, one with payment of a small civil penalty. One (1) has subsequently met the education requirements and has been recertified, while the other's certificate has expired. Three (3) other installers whose certificates expired in FY 93/94 successfully made up their continuing education requirements and were recertified..

Continuing education opportunities accredited by the Board in FY 94/95 are listed in Table 2.

The Board continued to express some concern that several programs appeared to be more "sales" and less "educational" oriented than they should be. As a result, Department staff sought and received Federal funds to increase the amount of State sponsored training. As a result, the Department, in conjunction with the Maine Oil Dealers' Association, co-sponsored a program dealing with safety in underground tank removals in February, 1995.

V. Processing of Complaints

Disciplinary actions involving 25 investigations and 30 alleged violations were processed and resolved in FY 94/95, including eight (8) held over from 1993/94. A summary of the Board's actions in these matters is presented in Appendix A.

One of the Board's decisions was appealed to Administrative Court, which remanded the case back to the Board to clarify its Findings of Fact. After making such clarification and not changing the penalties, the defendant indicated he/she would not again appeal the amended order.

Nineteen (19) complaints involving 29 alleged violations were received in FY 94/95. Investigations which remain unresolved at the end of the year are listed in Table 3.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August, 1988. This graph indicates a declining trend continued from last year after five (5) years of steadily increasing alleged violations.

VI. Rulemaking and Program Development

No work on rulemaking or program development occurred last year. A few errors have been found in the rules which will require minor rulemaking effort to correct.

VII. Newsletter

One of the initial benefits of certification of installers was the development of an ability by the State to communicate with installers via a newsletter. Three issues of "The Maine Installer" were published during FY 94/95. Unfortunately, it has been impractical to keep to our original hope of a quarterly newsletter due to conflicting demands on staff. However, the newsletter appears to be well received whenever it can be published.

PROGRAM	SPONSOR	DATE APPROVED	HOURS APPROVED
Stage I Vapor Recovery Rule	MODA	August 26, 1994	1
40 Hour OSHA Training (Renewal)	SafeTech/Deborah Roy	August 26, 1994	8
8 Hour OSHA Refresher (Renewal)	SafeTech/Deborah Roy	August 26, 1994	2
OSHA 40 Hr. Haz. Waste Oper. (Dalton)	Emer. Preparedness Cons.	Sept. 16, 1994	8

8-Hr. Haz Mat. Refresher (Watson)	Safety Communications	Nov. 18, 1994	2
OSHA 1910 & 1926, Me Dept of Labor	Lynn Lamstein (Renewal)	Nov. 18, 1994	8
Safety Training for Purging of USTs	MODA/DEP	Dec. 16, 1994	4
OSHA 1910 Industry Standards	Bur. of Labor/G. LaPointe	Dec. 16, 1994	6
Basic Electrical and Fire Safety	Safety Cou. of NH/LaPointe	Dec. 16, 1994	2
Petroleum Equip. Trade Show/Seminar	Dick Tuttle, Gould Equip.	February 17, 1995	2
Nace Coating Seminar/M. Copage	Nace International	February 17, 1995	4
OSHA Refresher/ Brian Leary	Southern Maine Technical	February 17, 1995	2
Hazardous Waste Oper. (Refresher) (8)	Gerry LaPointe/Webber	March 17, 1995	2
Emergency Response Technician (8)	Gerry LaPointe/Webber	March 17, 1995	2
Emergency Response Technician (24)	Gerry LaPointe/Webber	March 17, 1995	5
Hazardous Waste Operations (40 Hr)	Gerry LaPointe/Webber	March 17, 1995	8
40-Hour OSHA Safety (Renewal)	SafeTech/Deborah Roy	May 05, 1995	8
8-Hour OSHA Refresher (Renewal)	SafeTech/Deborah Roy	May 05, 1995	2
40-Hour Hazardous Waste Course	Burgess & Associates	May 05, 1995	8
8-Hour Hazardous Waste Course	Burgess & Associates	May 05, 1995	2
Annual Hazwopper Refresher	Safety Comm/Dead River	May 05, 1995	2
Advanced Polymer Tech/Poly/Piping	APT Piping/Lloyd Merriam	June 16, 1995	2
Total			90

Table 2. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 94/95.

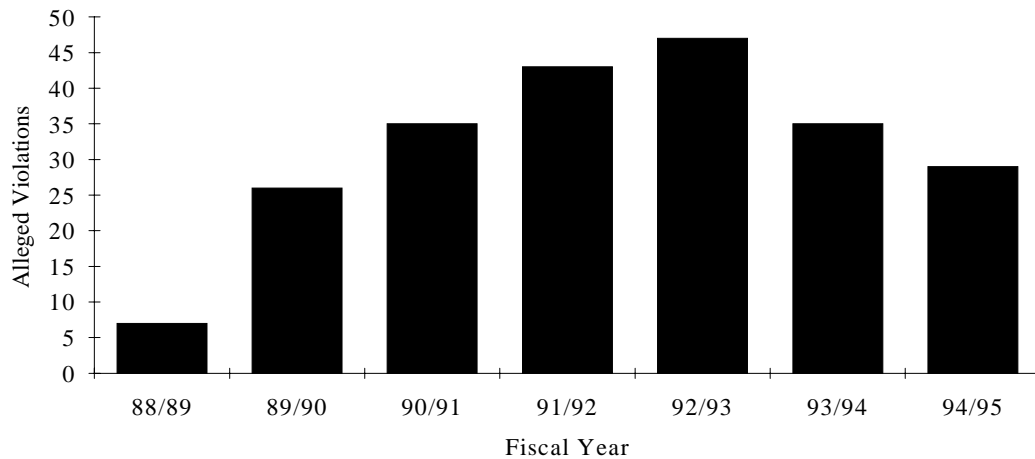
VIII. Data Management

We continue to use the databases developed previously in EXCEL for our data management needs. All the Board's staff continued to provide input into the development of an upgraded version of UNO (the replacement version is called "TANKS") (DEP underground tank registrations) which is designed to work in the database software entitled ORACLE. We appreciate this opportunity and hope the ultimate system will serve our needs and can replace our temporary efforts in EXCEL. As we understand it, development of this system continues and we are available to test it out once it becomes on-line.

Principle Violation	Year	No.	Date Received	Date Sum.	Action Date	Board Action
38MRSA563.1.A	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
06-096CMR691ApD.3	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
06-096CMR691.5.A.3.b	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
06-096CMR691.5.A.3.b(ii)	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
06-096CMR691ApD.1	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
06-096CMR691.5.A.3.d	1995	18	5/24/95	Awaiting	Awaiting	Awaiting
38MRSA563.1.A	1995	19	6/16/95	Awaiting	Awaiting	Awaiting

Table 3. Maine Board of Underground Storage Tank Installers ongoing enforcement actions as of June 30, 1995.

Figure 1. Alleged Violations Received as Complaints



IX. Financial Statement

The Board's financial statement for FY 94/95 is provided in Table 4. Two points should be considered when examining these data. First, income is estimated, based upon the number of people who applied for certification, took the various tests, became certified, were recertified, or were issued civil penalties. This was necessary because actual income to the Board is lumped with other underground tanks income in the Department's accounting system.

Second, the income shown for recertification varies widely on a biennial basis. Recertification is required every two (2) years, and this income for this year reflects the vast majority of tank installers becoming recertified last year. It is therefore expected that this figure will follow two (2) year cycles of being high and low.

Respectfully Submitted,

Wayne Gifford,
Chairman

Income (Estimated)	
Applications/Initial Written Examinations	\$3,000.00
Apprenticeship Variances	\$200.00
Apprenticeship Renewals	\$900.00
Sales of Study Packets	\$300.00
On-Site Examination Fees	\$1,050.00
Final Exams/New Certifications	\$1,000.00
Recertifications	\$1,700.00
Late fees/recertification	\$50.00
Civil Penalties	\$5,800.00
Subtotal	\$10,800.00
Expenses: Account 014 06A 1520 44x	
Personal Services	\$65,640.19
Fringe	\$17,747.46
Contractual	\$38.71
Travel	\$533.69
Supplies	\$492.41
Other	\$3,717.85
Sta-Cap	\$2,076.17
Subtotal	\$90,246.48
Grand Total	(\$79,446.48)

Table 4. Financial statement for the Board of Underground Tank Installers, July 1, 1994 through June 30, 1995.

Appendix A

Maine Board of Underground Storage Tank Installers
Summary of FY 94/95 Enforcement Actions (By Violation)

Principle Violation	Year	No.	Date Received	Action Date	Result	Fine	Days Susp.	Days Probation	Other Penalty	Date Closed
06-096CMR118.3(A)	1995	2	9/19/94	11/18/94	Dismissed					11/18/94
06-096CMR118.3(A)	1995	4	9/27/94	2/17/95	Dismissed					3/17/95
06-096CMR118.3(A)	1995	5	9/27/94	11/18/94	Dismissed					11/18/94
06-096CMR118.3(A)	1995	6	9/27/94	11/18/94	Dismissed					11/18/94
06-096CMR118.3(A)	1995	7	9/27/94	11/18/94	Dismissed					11/18/94
06-096CMR118.3(A)	1995	8	9/27/94	11/18/94	Dismissed					11/18/94
06-096CMR118.3(A)	1995	13	12/5/94	3/17/95	Dismissed					3/17/95
06-096CMR118.3(A)	1995	15	1/11/95	3/17/95	Dismissed					3/17/95
06-096CMR118.3(A)	1995	16	1/11/95	3/17/95	Dismissed					3/17/95
06-096CMR691.5.B.3	1995	3	9/20/94	12/16/94	Order	\$200				1/20/95
06-096CMR691.5.D.11	1995	9	10/11/94	12/16/94	Dismissed					12/16/94
06-096CMR691.5.D.11	1995	11	10/11/94	12/16/94	CA				Warning	1/20/95
06-096CMR691AppD.3	1995	3	9/20/94	12/16/94	Order	\$500				1/20/95
06-096CMR691AppE.7	1995	3	9/20/94	12/16/94	Order	\$800				1/20/95
06-481CMR1.4.B(1)	1994	15	6/1/94	8/26/94	CA	\$250		180	Ed	9/6/94
06-481CMR1.4.B(1)	1994	16	6/1/94	8/26/94	CA	\$250		180	Ed.	9/12/94
06-481CMR1.4.B(1)	1994	17	5/16/94	8/26/94	CA	\$250		180	Ed	9/6/94
06-481CMR1.4.B(1)	1995	1	9/15/94	12/16/94	CA	\$250		180	Ed	12/16/94
32MRS10014.1	1995	14	12/21/94	1/20/95	CA			180	Ed	2/17/95
38MRS1563.1.A	1995	10	11/16/94	12/16/94	CA	\$250				1/20/95
38MRS1563.1.A	1995	17	4/26/95	6/16/95	Dismissed					6/16/95
38MRS1563.8	1995	10	11/16/94	12/16/94	CA	\$250				1/20/95
38MRS1563.8	1995	17	4/26/95	6/16/95	Dismissed					6/16/95
38MRS1564.1.A	1994	11	4/27/94	9/16/94	CA		90			11/18/94
38MRS1564.1.A	1994	12	4/27/94	9/16/94	CA		90			11/18/94
38MRS1564.1.A	1994	13	4/27/94	9/16/94	Order	\$1,000	90			9/16/94
38MRS1564.1.A	1994	14	4/27/94	9/16/94	Order	\$1,000	90			9/16/94
38MRS1565.1.A	1994	10	3/29/94	6/17/94	Order	\$800				9/16/94
38MRS1570-K.3.A	1995	12	11/15/94	1/20/95	Dismissed					1/20/95
38MRS1570-K.3.A	1995	12	11/15/94	1/20/95	Dismissed					1/20/95